

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 98-0300P**

**Use Tax**

**Calendar Years 1994, 1995, 1996**

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**ISSUE(S)**

**I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer protests the penalty assessed on an audit completed on December 12, 1997.

Taxpayer failed to self-assess and remit use tax. Taxpayer is an Indiana Corporation that was audited previously on May 19, 1993.

**1. Tax Administration – Penalty**

**DISCUSSION**

Taxpayer requests a waiver of penalty and states it has three reasons as follows:

- (a) A good portion of the taxes due is the result of tax errors either by suppliers or venders in Indiana or suppliers or venders in other states. A portion of the sales tax due was billed and paid to other states in error.
- (b) Other taxes due were the result of our being unable to prove that these taxes had in fact been paid but because we are missing receipts or invoices, we cannot substantiate that the correct tax in fact had been paid.
- (c) Other taxes due were the result of bookkeeping errors or errors in invoicing.

Taxpayer's audit report revealed that no use tax accrual system was in place. The ST-103's clearly have an area in which to report purchases where no sales tax was collected. The taxpayer failed to self assess as required by statute. In addition, the taxpayer had a prior audit dated May 19, 1993 and was aware that use tax must be remitted.

The taxpayer was negligent in failing to remit the use tax due.

**FINDING**

Taxpayer's protest is denied.